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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,523	08/24/2006	Takanobu Matsubara	0033-1095PUS1	7377

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BIRCH STEWART KOLASCH & BIRCH  
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FALLS CHURCH, VA 22040-0747

EXAMINER
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NGUYEN, KIM T

ART UNIT	PAPER NUMBER
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2163

NOTIFICATION DATE	DELIVERY MODE
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08/11/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,523	<b>Applicant(s)</b> MATSUBARA, TAKANOBU	
	<b>Examiner</b> KIM T. NGUYEN	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date  
:08/24/06,02/12/07,06/18/08,06/05&08/20/09,03/22/10,.

## DETAILED ACTION

1. Claims 1-14 are pending in this Office action.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material per se.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” Both types of “descriptive material” are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

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Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

2.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2004/0073869 A1 issued to James Douvikas et al. (“Douvikas”).

As per claim 1, Douvikas teaches “a data processing device comprising”:  
“a data structure information obtaining unit obtaining data structure information including information defining a data structure of data to be transmitted to an other device,”  
(Figures 4, 7A-7B, [0085], [0096]);  
“a user interface description data obtaining unit obtaining user interface description data for collecting data by a user's operation for creating data to be transmitted to said other

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device,” (Figures 4, 7A-7B, [0086], [0096]);

“an access information obtaining unit obtaining access information defining at least one of a method of transmitting data to said other device and a destination,” (Figures 4, 7A-7B, [0055], [0085], [0096]);

“a user interface processing unit processing said user interface description data to output a user interface,” (Figures 4, 7A-7B, [0057], [0085]);

“a storing unit storing the data obtained from said user interface output from said user interface processing unit as a value of an attribute name included in said user interface,” (Figures 4, 7A-7B, [0096]); and

“a transmission data processing unit determining a matching relationship between said attribute name included in said data structure information and the attribute name included in said user interface description data, handling said data obtained based on said user interface description data as an attribute value, creating the data to be transmitted to said other device by replacing a corresponding unit in said data structure information with said attribute value and transmitting said created data based on said access information,” (Figures 4 and 7A, 19A-19C, [0051], [0085]).

As per claim 2, Douvikas further shows “wherein said transmission data processing unit determines the matching relationship between said attribute name included in said data structure information and said attribute name included in said user interface description data, saving said data obtained based on said user interface description data as a file, creating said data to be transmitted to said other device by handling the data as an attribute value and replacing a corresponding unit in said data

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structure information with said attribute value and transmitting said created data to said other device,” (Figures 4 and 7A, 19A-19C, [0051], [0085]).

As per claim 3, Douvikas further shows “wherein when said attribute name included in said data structure information and included in said user interface description data is a file, said transmission data processing unit saves said data obtained based on said user interface description data as a file of said attribute name, thereby creates said data to be transmitted to said other device and transmits the created data,” (Figures 4, 7A-7B, 19A-19C, [0096]).

As per claim 4, Douvikas further shows “wherein said data structure information obtaining unit obtains said data structure information from an other device,” (Figures 19A-19C, [0096]).

As per claim 5, Douvikas further shows “wherein said access information obtaining unit obtains said access information from an other device,” (Figures 19A-19C, [0096]).

As per claim 6, Douvikas further shows “wherein said user interface description data obtaining unit obtains said user interface description data from an other device,” (Figures 4, 7A-7B, [0055], [0096]).

As per claim 7, Douvikas further shows “wherein said data structure information obtaining unit obtains a plurality of pieces of the data structure information, and (Figures 19A-19C)  
said data processing device further comprises a data structure information selecting unit selecting predetermined data structure information to be used for transmitting the data

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to said other device from among said plurality of pieces of said data structure information,” (Figures 7A-7B, 19A-19C, [0055]).

As per claim 8, Douvikas further shows “wherein said access information obtaining unit obtains a plurality of pieces of the access information, and (Figures 4, 7A-7B)

said data processing device further comprises an access information selecting unit selecting predetermined access information to be used for transmitting data to said other device from among said plurality of pieces of the access information,” (Figures 7A-7B).

As per claim 9, Douvikas further shows “a transmission data selecting unit selecting predetermined data to be transmitted to said other device from among the plurality of pieces of the data stored in said storing unit,” (Figures 7A-7B, 19A-19C, [0051]).

As per claim 10, Douvikas further shows “wherein the data stored in said storing unit includes data corresponding to each item, and (Figures 7B, 19A and 19C, [0010])

said data stored in said storing unit includes data classified by items, (Figures 7B, 19A and 19C)

when a plurality of the data are corresponding to one of said items, said transmission data selecting unit exhibits, for each of said items corresponding to said plurality of the data, said plurality of the data corresponding to said item, and selects one of said plurality of the data to be correlated to said item,” (Figure 7B).



As per claim 11, Douvikas further shows “wherein the data stored in said storing unit is formed of a combination of the data pieces corresponding to the respective items, and (Figures 7B, 19A and 19C)

said data stored in said storing unit includes a combination having data classified by items, (Figures 7B, 19A and 19C)

when said storing unit stores a plurality of the combinations, said transmission data selecting unit exhibits the data for each of at least one of said items in the combination which is capable of identifying the combination, and selects one of said plurality of the combinations which is a predetermined data to be transmitted to said other device,” (Figures 7B, 19A and 19C).

As per claim 12, Douvikas further shows “wherein data stored in said storing unit is a history of inputs by a user,” (Figures 19A-19C, [0010]).

As per claim 13, Douvikas teaches “a data processing program for causing a computer to execute a data processing for transmitting data to an other device, causing the computer to execute”:

“a data structure information obtaining step of obtaining data structure information including information defining a data structure of data to be transmitted to said other device,” (Figures 4, 7A-7B, [0085], [0096]);

“a user interface description data obtaining step of obtaining user interface description data for collecting data by a user's operation for creating the data to be transmitted to said other device,” (Figures 4, 7A-7B, [0086], [0096]);

“an access information obtaining step of obtaining access information defining at least

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one of a method of transmitting data to said other device and a destination,” (Figures 4, 7A-7B, [0055], [0085], [0096]);

“a user interface processing step of processing said user interface description data to output said user interface,” (Figures 4, 7A-7B, [0057], [0085]);

“a storing step of storing data obtained from said user interface provided from said user interface processing unit as a value of an attribute name included in said user interface in a storing unit,” (Figures 4, 7A-7B, [0096]); and

“a transmission data processing unit of determining a matching relationship between the attribute name included in said data structure information and said attribute name included in said user interface description data, handling said data obtained based on said user interface description data as an attribute value, creating the data to be transmitted to said other device by replacing a corresponding unit in said data structure information with said attribute value and transmitting the created data based on said access information,” (Figures 4 and 7A, 19A-19C, [0051], [0085]).

As per claim 14, Douvikas further shows “a computer-readable record medium storing the data processing program according to claim 13,” (Figures 4, 7A-7B, [0051], [0055], [0057-0059]).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(US 2002/0103827 A1) by Sesek, Robert

***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim T. Nguyen whose telephone number is (571)270-1757. The examiner can normally be reached on 7:30AM to 5:00PM East. Alt Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jul. 23, 2010

/Kim T Nguyen/

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